UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
	:	
-against-	:	No. 11 Cr. 956 (JFK)
	:	**Opinion and Order**
VAUGHN STOKES, a/k/a "Qua,"	:	
	:	
Defendant.	:	

APPEARANCES:

For the Government:
Preet Bharara, U.S. Attorney, Southern District of New York
Of Counsel: Benjamin R. Allee

For the Defendant:
Philip L. Weinstein
Federal Defenders of New York

JOHN F. KEENAN, United States District Judge:

Before the Court is Defendant Vaughn Stokes' ("Stokes" or "Defendant") motion to suppress physical evidence seized from a motel room in the Bronx, New York. For the reasons that follow, the motion is denied.

I. Background

This is a tale of nine guns, a misguided prosecutor whose poor judgment jeopardized the safety of the public he is tasked to protect, and a motel clerk, who, by simply doing his job, has prevented the Fourth Amendment and its exclusionary rule from becoming a suicide pact. In a two-count indictment dated November 8, 2011, Stokes, also known as "Qua," is charged: (1) as a felon in possession of a MAC M-11-type 9mm caliber

machinegun and ammunition magazine, a Taurus .357 caliber revolver, a Beretta .40 caliber pistol and ammunition magazine, a Smith & Wesson .38 Special caliber revolver, a Smith & Wesson .40 caliber pistol and ammunition magazine, a Smith & Wesson .44 caliber revolver, a Colt .45 caliber pistol and ammunition magazine, and two Glock .40 caliber pistols and ammunition magazines in violation of 18 U.S.C. § 922(g)(1); and (2) with possession of a machinegun in violation of 18 U.S.C. § 922(o)(1). By motion dated December 8, 2011, Stokes moves to suppress the nine firearms and ammunition recovered on July 12, 2010 in what he contends was an illegal search of a motel room. With the Government's consent, the Court conducted an evidentiary hearing on January 19, 2012. The Court heard oral argument on the motion on February 15, 2012. This opinion constitutes the Court's findings of fact and conclusions of law.

At the evidentiary hearing, the Court heard testimony from three law enforcement agents who participated in the events leading up to and including the seizure of firearms from Stokes' motel room. Detective Robert Perrotta and Detective Lawrence Bartoletti from the Poughkeepsie Police Department testified for the Government, and Stokes called Agent Sean McCluskey of the United States Marshals Service. The relevant facts are largely uncontested.

In the early morning hours of June 24, 2010, Kareem Porter was stabbed to death in the vicinity of the Congress Bar in Poughkeepsie, New York. (Jan. 19, 2012 Tr. at 6-7). As part of his investigation of the homicide, Detective Perrotta interviewed at least five eyewitnesses to the stabbing, who explained that Stokes and a man named Donovan Gilliard were engaged in a verbal altercation with Kareem Porter. (Id. at 7-13). The argument escalated, at which point Donovan Gilliard produced a knife. (Id.). Stokes initially attempted to restrain Donovan Gilliard, but Gilliard broke free. (Id.). Gilliard and Stokes then chased after Kareem Porter. (Id.). Porter fell to the sidewalk, and Donovan Gilliard jumped on top of him, stabbing Porter in the chest and torso while Stokes kicked and punched Porter's head. (Id.). Video footage from a security camera at the Congress Bar similarly showed Gilliard removing a knife from his pocket, Stokes trying to restrain Gilliard, Gilliard breaking away, and Stokes and Gilliard running down the street. (Id. at 13-15). The knife used to stab Kareem Porter was recovered on the night of the homicide. (Id. at 68).

Based on his investigation, Detective Perrotta determined that Stokes and Donovan Gilliard should be brought into custody. (Id. at 15). Detective Perrotta had known Stokes since the mid-1990s and had interviewed Stokes just nine months earlier in

connection with a separate homicide investigation. (Id. at 16-17). Detective Perrotta looked for Stokes at various residences and in Poughkeepsie neighborhoods he knew Stokes frequented. (Id. at 17-18). Detective Perrotta also spoke to an informant named Joe, a man he had known for over a decade and who had provided reliable information during the six-month period preceding Kareem Porter's stabbing. (Id. at 19-20). Joe told Detective Perrotta that he had not seen Stokes since the stabbing, but he believed that Stokes had left the Poughkeepsie area and that Stokes may be armed to protect himself against retaliation from Kareem Porter's friends or family. (Id.).

Detective Perrotta could not locate the suspect in Poughkeepsie, (id. at 20), so he enlisted the assistance of the United States Marshals Service in tracking Stokes beyond his jurisdiction. (Id. at 21). Detective Perrotta had obtained Stokes' cell phone number at some point during their acquaintance, (id. at 21, 45), and he gave the number to the Marshals so as to obtain a pen register and to track Stokes' physical location by "pinging" his phone. (Id. at 45). On July 11, 2010, Agent McClusky informed Detective Perrotta that Stokes had been traced to the Pelham Garden Motel on Gun Hill Road in the Bronx, New York. (Id. at 22, 49-50). That evening, Detective Perrotta called Dutchess County Assistant District Attorney Frank Chase and informed the prosecutor that he planned

to go to the Bronx to arrest Stokes. (Id. at 58-59, 68). Detective Perrotta told ADA Chase that the Marshals preferred to "have an arrest warrant in hand," (id. at 60), but the prosecutor declined to obtain a warrant for Stokes' arrest. (Id. at 61). Instead, it was the prosecutor's "idea that [Detective Perrotta] could talk with Vaughn Stokes and attempt to reason with Vaughn Stokes to cooperate in both the earlier homicide that occurred last September as well as the current homicide . . . of Kareem Porter," (id.), without running afoul of the right to counsel afforded to defendants under New York state law pursuant to People v. Samuels, 400 N.E.2d 1344 (N.Y. 1980). (Id. at 55).

Between 9:00 and 9:30 a.m. on July 12, 2010, a group of twelve to fifteen law enforcement officers, including Detective Perrotta, Detective Bartolotti, Agent McCluskey, and members of the New York-New Jersey Regional Fugitive Task Force, met in a parking lot near the Pelham Garden Motel in the Bronx. (Id. at 22-23). Their purpose in going to the Bronx that day was to arrest Stokes. (Id. at 23). Detective Perrotta gave the other officers a photo and physical description of Stokes and told them that Stokes may be armed, aware that the police were looking for him, and prepared for retaliation from Kareem Porter's associates. (Id. at 24). After the briefing session, Detective Perrotta and other officers went to the office of the

Pelham Garden Motel to verify that Stokes was staying there. (Id.). Motel employees identified Stokes from a photo and told the officers that Stokes was staying in room number 57. (Id. at 25). The employees provided the officers with a registration card indicating that Stokes and a companion, Shannon Fulmes ("Fulmes"), had checked into the motel on July 9, 2010, and had paid to rent a room through July 13, 2010. (Id.; Gov't Ex. 2).

The Pelham Garden Motel is a U-shaped, two-story structure with a center courtyard parking lot. (Gov't Exs. 1-B, 1-C, 1-D, 1-E, 1-F). The motel rooms face the center courtyard, and the doors to the rooms open onto exterior walkways overlooking the courtyard. (Id.). The office employees showed Detective Perrotta where room 57 was located and confirmed that Stokes could exit the room only through the front door or a second-floor window. (Jan. 19, 2012 Tr. at 27-28). The motel employees also gave Detective Perrotta a pass key to access room 57. (Id. at 28). After ascertaining that Stokes was a registered guest at the Pelham Garden Motel, Detective Perrotta again called ADA Chase in an attempt to secure an arrest warrant, but the prosecutor's "decision was to say no to the warrant and with the premise of attempting to talk . . . to Vaughn Stokes once I took him into custody," despite the fact that a warrant could likely be obtained quickly. (Id. at 28, 55).

The law enforcement officers then prepared to approach room 57. Several officers, including Detective Bartolotti, drove their unmarked cars into the center courtyard and parked in the parking lot. (Id. at 73-74). Although the cars were unmarked, each of the agents wore bullet-proof vests marked "Police" or "U.S. Marshals" in bold letters. (Id. at 24, 74). At this point it was approximately 10:25 a.m. and the officers had grown concerned that other hotel patrons had spotted them and would alert Stokes that the police were at the motel. (Id. at 29). Therefore, Detective Perrotta, Detective Bartolotti, Agent McCluskey, and others moved directly to the entrance to room 57. (Id. at 29, 34). Other officers secured the back of the hotel below the second-floor window of room 57. (Id. at 30). Upon arrival at room 57, Detective Perrotta found that the door was open about one and one half to two inches. (Id. at 34-35). He noted that the door does not close completely on its own and will remain ajar unless pushed close with sufficient force. (Id. at 66). Similarly, Detective Bartolotti noticed that the door to room 57 was propped open about two inches by a door latch. (Id. at 75; Def. Ex. C). Detective Perrotta then pushed open the door and, using nicknames by which he and Stokes knew each other, called out "Qua, are you in there? It's Rambo." (Jan. 19, 2012 Tr. at 35). Stokes replied, "Yo." (Id.). As he heard Stokes' reply, Detective Perrotta crossed the threshold into

room 57. (Id.). His gun was drawn when he entered the room. (Id.). Once inside, he found Stokes at the foot of the bed. (Id.). Stokes asked Detective Perrotta what this was about, and Detective Perrotta replied that it had to do with what happened outside the Congress Bar, and that Stokes should get dressed because the officers were bringing him back to Poughkeepsie. (Id. at 36). Stokes told Detective Perrotta that his clothes were behind the officer, and Detective Perrotta reached for a pair of pants he saw lying on top of a bag on the floor. (Id. at 36-37). Once he picked up the pants to hand to Stokes, Detective Perrotta saw that the bag underneath the pants was open and contained a large handgun. (Id. at 37). He shouted out "gun" to alert the other officers, and while Agent McCluskey removed the bag from room 57, Stokes was placed in handcuffs. (Id.). After securing Stokes, Detective Perrotta walked outside of the room and saw that the other officers had unpacked a total of nine guns – a variety of semiautomatic and revolver-type handguns – and ammunition from the gym bag and had prepared the evidence to be photographed. (Id. at 37-38).

II. Discussion

The Government argues that the warrantless entry into the Defendant's motel room was justified due to exigent circumstances, as well as under the inevitable discovery

doctrine. There is no contention that the Defendant consented to Detective Perrotta's entry into the motel room.

A. Exigent Circumstances

"It is a basic principle of Fourth Amendment law . . . that searches and seizures inside a home without a warrant are presumptively unreasonable." Kentucky v. King, 131 S. Ct. 1849, 1856 (2011) (quotation omitted). These Fourth Amendment protections extend to a person staying in a motel room. See United States v. Moran Vargas, 376 F.3d 112, 115 n.1 (2d Cir. 2004); United States v. Mankani, 738 F.2d 538, 544 (2d Cir. 1984). "It is well-settled, however, that the warrant requirement must yield in those situations where exigent circumstances demand that law enforcement agents act without delay." United States v. MacDonald, 916 F.2d 766, 769 (2d Cir. 1990). In determining whether exigent circumstances justify a warrantless search and seizure, the Court considers several factors, including:

> (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry.

Id. at 769-70 (internal quotation marks omitted). "[T]the test for determining whether a warrantless entry is justified by

exigent circumstances is an objective one that turns on the district court's examination of the totality of circumstances confronting law enforcement agents in the particular case." Id. at 769. Importantly, this objective standard "focuses on what the facts, as they appeared at the moment of entry, would lead a reasonable, experienced officer to believe." United States v. Klump, 536 F.3d 113, 118 (2d Cir. 2008) (emphasis in original).

"The essential question in determining whether exigent circumstances justified a warrantless entry is whether law enforcement agents were confronted by an 'urgent need' to render aid or take action." MacDonald, 916 F.2d at 769. Courts have sanctioned warrantless entries in emergency situations involving threat of bodily harm, see, e.g., Brigham City, Utah v. Stuart, 547 U.S. 398, 403 (2006) ("One exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury."); Klump, 536 F.3d at 118 (warrantless entry justified by exigent circumstances where "firefighters had an objectively reasonable basis for believing that there was a fire inside the warehouse"), hot pursuit of a fleeing suspect, see King, 131 S. Ct. at 1856, as well as in situations where the threat of harm involved destruction of evidence, see, e.g., United States v. Zabare, 871 F.2d 282, 291 (2d Cir. 1989) (warrantless entry into defendant's home justified even though "there was no extrinsic

evidence of 'urgency' of a type which this Court has frequently relied upon in upholding warrantless entries" where officers had an objectively reasonable basis to believe that the defendant would discover that he was "the subject of an undercover investigation and that he then would have moved quickly to destroy the evidence of his participation in the transaction"). The Government bears the burden of showing that a warrantless entry into a motel room was proper. United States v. Mendenhall, 446 U.S. 544, 557 (1980).

Several of the MacDonald factors fall in the Government's favor. The Defendant was facing the most serious of charges after he was seen physically assaulting Kareem Porter with his feet and fists. Defendant concedes that, based on the eyewitness accounts and video footage, there was probable cause for a lawful arrest. (Def. Post-Hearing Mem. at 1). Moreover, the officers had strong reason to believe that the Defendant was in room 57 of the Pelham Garden Motel – both the registration card and the motel employee's photo identification confirmed that the Defendant was staying at the motel and was likely in his room.

At most, however, those factors indicate that the law enforcement officers had an objectively reasonable basis to believe that a suspect in a violent crime was located in the motel room. Exigent circumstances require an "urgent need" for

the officers to step into that motel room, but the facts available at the moment of entry, viewed objectively, do not establish that the officers had a reasonable basis to believe that anything approaching physical harm, the suspect's escape, or destruction of evidence would occur if they did not enter room 57. First, although Detective Perrotta had received a tip from Joe that the Defendant might be armed, there is no testimony that Joe, the witnesses to the stabbing, or any law enforcement officer ever saw the Defendant possess any kind of weapon, either during the homicide or afterwards. Joe was merely inferring that the Defendant might need to protect himself from retaliation by Kareem Porter's associates. There was no testimony that any of the officers standing outside room 57 saw or heard anything affirmatively indicating that Defendant was armed and prepared to use a weapon if they did not enter the room to prevent it. The officers may have had an objectively reasonable basis to believe that the Defendant would resist arrest – an inherent risk in any arrest – but there was no specific threat of harm to themselves, Defendant, or a third party necessitating their entry into the motel room.

Second, while it is true that the Defendant left the city of Poughkeepsie after Kareem Porter's homicide, the officers did not have an objectively reasonable belief that the Defendant could flee the motel room if not immediately apprehended.

Although the officers were worried that other motel guests would alert the Defendant to a police presence, there was no testimony that the officers waiting outside of the room heard any such alert from a bystander or heard Defendant receive an alert on the phone. More importantly, the officers already knew that there were only two means of egress from room 57 – the front door and the window – both of which were covered by groups of armed Marshals. If the Defendant was in fact in room 57 on the morning of July 12, 2010 and had been warned of the officers' presence, he had nowhere to go - the officers had him cornered. Furthermore, when Detective Perrotta called out "Qua, are you in there? It's Rambo," the front door was ajar; the officers heard Defendant respond "Yo," so they certainly would have been able to hear him scurrying to escape. Yet there was no testimony that the officers heard or saw anything when they arrived at room 57 that would lead them to believe that they could not detain the Defendant if they did not enter the motel room swiftly. Indeed, when Detective Perrotta did walk into the room, he saw that Defendant had not even gotten out of bed after the officer announced himself. Finally, it is difficult to accept that the officers were seriously concerned the Defendant would flee the Pelham Garden Motel if not immediately apprehended when they waited no less than twelve hours after tracing him to that location to seek him out.

Third, there was no risk of destruction of evidence absent the officers' entry into room 57, as the weapon used to stab Kareem Porter had been recovered weeks earlier. The only "evidence" the officers sought was information from the Defendant himself.

Defendant makes much of the fact that the officers made a strategic decision not to obtain a warrant in order to evade Defendant's right to counsel. The officers' subjective reason for proceeding without a warrant is not relevant to MacDonald's objective test. However, the surrounding facts do bear on the exigent circumstances determination. For instance, Detective Perrotta had time to make two separate attempts to secure a warrant prior to entering room 57; there were no exigencies between the time the Marshals located the Defendant and the time of the warrant requests, and nothing happened after Detective Perrotta's second conversation with ADA Chase to create a newfound urgency in apprehending the Defendant. Moreover, when Detective Perrotta decided to approach Defendant without a warrant, his mission shifted from effecting a quick arrest to reasoning with the Defendant and trying to convince him to cooperate. The Court cannot see any urgent need to enter the motel room where the officer's goal was to talk first and then detain. Ultimately, the officers had nothing more than probable cause to arrest a murder suspect. That probable cause, standing

alone, is not enough get the officers into the motel room and, as a result, is not enough to sustain the Government's burden of proof with respect to the exigent circumstances exception to the exclusionary rule.

B. Inevitable Discovery

The inevitable discovery exception provides that "evidence that was illegally obtained will not be suppressed if the government can prove that the evidence would have been obtained inevitably even if there had been no statutory or constitutional violation." United States v. Mendez, 315 F.3d 132, 137 (2d Cir. 2002) (internal quotations omitted). "In essence, the inevitable discovery doctrine's application turns on a central question: Would the disputed evidence inevitably have been found through legal means 'but for' the constitutional violation? If the answer is 'yes,' the evidence seized will not be excluded." United States v. Heath, 455 F.3d 52, 55 (2d Cir. 2006). In this Circuit, "illegally-obtained evidence will be admissible under the inevitable discovery exception to the exclusionary rule only where a court can find, with a high level of confidence, that each of the contingencies necessary to the legal discovery of the contested evidence would be resolved in the government's favor." Id. at 60. The Government bears the burden of establishing that evidence would inevitably have been

discovered by a preponderance of the evidence. See Nix v. Williams, 467 U.S. 431, 444 (1984).

In support of its post-hearing briefing, the Government submitted the February 3, 2012 affidavit of Peter Patel. (Gov't Mem., Ex. A). Mr. Patel affirms that he has been the manager of the Pelham Garden Motel since 2004. (Declaration of Peter Patel ("Patel Decl.") ¶ 1). In his capacity as manager, he oversees the cleaning and maintenance of the motel rooms. (Id. ¶ 2). Staff members enter occupied motel rooms daily to clean, and they also clean after guests vacate the rooms. (Id.). If cleaning staff find "contraband" in a motel room, Mr. Patel or other motel employees, "in the ordinary course of business" turn that contraband over to law enforcement. (Id. ¶ 3). In fact, Mr. Patel states that in July 2010 cleaning staff found ammunition, a ring, and documents in room 57 after Defendant was arrested; he informed law enforcement that these items had been recovered. (Id. ¶ 4). At oral argument on February 15, 2012, the Court offered to reopen the evidentiary hearing so that the parties could examine Mr. Patel live on the stand. Defendant declined the opportunity to question the witness, so the Court relies on the sworn declaration. (Feb. 15, 2012 Tr. at 107).

In order to determine whether the firearms and ammunition would have inevitably been discovered if the officers had not entered room 57, the court must "examine each of the

contingencies that would have had to have been resolved favorably to the government in order for the evidence to have been discovered legally and to assess the probability of that having occurred." Heath, 455 F.3d at 60 (emphasis omitted). If Detective Perrotta had bided his time outside room 57, the only real contingency that would have had to occur in order for law enforcement to discover the firearms was for Defendant to leave his motel room with the guns. As Defendant was due to vacate the room on July 13, 2010, that event had to occur with certainty within 24 hours of the warrantless search, but likely earlier if Defendant left the room for food, an early check-out, or any number of other reasons. Once Defendant left the room, there are two potential avenues to inevitable discovery, either of which would have a high probability of recovering the firearms.

First, Defendant was holed up in a motel room in the Bronx, immediately following his involvement in a homicide, with enough guns and ammunition to arm a full infantry squad. Those facts alone, not to mention Joe's tip to Detective Perrotta, indicate that Defendant had strong concerns about his personal safety, and thus it is highly unlikely that he would have left room 57 without one or more weapons on his person for protection. Even if the guns were meant for some purpose other than protection, such as for sale, it is, again, highly unlikely that Defendant

would have left such a large and valuable cache of weapons unattended in a motel room with a door that does not close all the way and that opens onto an exterior walkway accessible by any passerby on the street. Thus, if Defendant exited room 57 with one or more guns in his pocket or waistband to find Detective Perrotta waiting outside, the officer would have talked to him, and placed him under arrest as planned. As Detective Perrotta believed Defendant to be armed based on Joe's tip, he would have performed a search incident to Defendant's lawful arrest and found the guns. See United States v. Robinson, 414 U.S. 218, 235 (1973) ("A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification. It is the fact of the lawful arrest which establishes the authority to search, and we hold that in the case of a lawful custodial arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a 'reasonable' search under that Amendment."). Similarly, if Defendant exited room 57 holding the bag of guns, Detective Perrotta would have placed him under arrest as planned, and searched the bag either incident to the arrest or as an inventory search of property in Defendant's possession. See

Illinois v. Lafayette, 462 U.S. 640, 648 (1983); Mendez, 315 F.3d at 137.

Even if Defendant left the bag in his room, a proposition the Court finds highly unlikely considering his demonstrated concern about protection from retaliation for Kareem Porter's stabbing, then cleaning staff would have found the open bag of firearms along with the ammunition, ring, and documents that were in fact recovered when they went into the room to prepare it for another guest. Just as he did with the ammunition, ring, and documents, the Court has no doubt that Mr. Patel, in the ordinary course of business, would have turned the firearms over to law enforcement. In other words, the fact that additional ammunition was inevitably discovered in room 57 gives the Court a high level of confidence that the firearms would have been inevitably discovered as well. Defendant makes two points in opposition. First, Defendant argues that his arrest did not terminate his rental of room 57, which was paid through July 13, 2010, and therefore he had a reasonable expectation of privacy in the room post-arrest such that police could not search property recovered by motel cleaning staff without a warrant. However, Defendant cites no authority in this Circuit in support of his argument, and at least one court had made findings to the contrary. See United States v. Wyche, 307 F. Supp. 2d 453, 460-61 (E.D.N.Y. 2004) ("Wyche having been taken into custody on the

basis of the witness identification, the police would have seized his luggage from his motel room. (It is unlikely that the motel owner would allow Wyche to indefinitely keep his belongings there.) . . . Wyche's three weapons would have inevitably, and lawfully, been discovered in his duffel bag when the bag was later inventoried at the Fifth Precinct after Wyche's arrest."). Thus, if cleaning staff entered room 57 after Defendant's arrest but prior to the expiration of the rental period, found the bag of firearms, and turned it over to the police, there is no authority in this Circuit preventing law enforcement from searching the bag. Indeed, it is not at all clear that Defendant's expectation of privacy in a pre-paid motel room survives his arrest such that police could not enter the room or search items recovered from that room. See United States v. Rahme, 813 F.2d 31, 34-35 (2d Cir. 1987) (holding that "when a hotel guest's rental period has expired or been lawfully terminated, the guest does not have a legitimate expectation of privacy" in the room or articles therein (emphasis added)); see also Patel Decl. ¶ 2 (noting motel policy of entering rooms to clean after tenants "check out or otherwise cease their stay").

Second, Defendant argues that Fulmes, the other registered guest for room 57, could have returned and removed the bag of firearms after Defendant's arrest but before the room rental expired so cleaning staff would not have found the contraband.

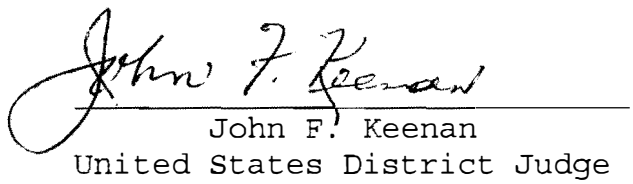
This is a possibility, but not one that is supported by the evidence. There was no testimony that any witness saw Fulmes on the day of Defendant's arrest, either on the premises or in the room itself, so there is no reason to believe Fulmes was aware of the arrest and would know to remove the bag. Moreover, even if Fulmes did return to room 57 after Defendant's arrest – and there is nothing in the record to indicate that fact – he or she was not particularly thorough in clearing contraband out of the room. The Court is not convinced that Fulmes would have taken the bag before cleaning staff arrived when he or she left behind the ammunition, ring, and documents that were ultimately turned over to the police. Thus, the Court finds by a preponderance of the evidence that the bag of firearms and ammunition would have been discovered even if Detective Perrotta had never set foot in room 57.

III. Conclusion

The motion to suppress physical evidence [Docket No. 9] is denied. The parties are directed to appear for a status conference on March 21, 2012 at 11:00 a.m. in Courtroom 20-C. The time between now and March 21, 2012 is excluded from the provisions of the Speedy Trial Act because the interests of justice are best served by allowing the parties time to discuss a possible disposition of the case or a trial schedule.

SO ORDERED.

Dated: New York, New York
March 7, 2012



John F. Keenan
United States District Judge